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|--|-------------|----------------------|----------------------------------|------------------|
| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.              | CONFIRMATION NO. |
| 10/726,316   | 12/02/2003  | Graham C. Charters   | GB920020047US1/2798P             | 3102             |
| 29141  | 7590        | 01/10/2008           |                                  |                  |
| SAWYER LAW GROUP LLP<br>P O BOX 51418<br>PALO ALTO, CA 94303 |             |                      | EXAMINER<br>LEWIS, CHERYL RENE A |                  |
|  |             |                      | ART UNIT                         | PAPER NUMBER     |
|  |             |                      | 2167                             |                  |
|  |             |                      | NOTIFICATION DATE                | DELIVERY MODE    |
|  |             |                      | 01/10/2008                       | ELECTRONIC       |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patent@sawyerlawgroup.com  
nikia@sawyerlawgroup.com

## Office Action Summary

Application No.

10/726,316

Applicant(s)

CHARTERS, GRAHAM C.

Examiner

Cheryl Lewis

Art Unit

2167

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 43-72 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☒ Claim(s) 43-72 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. This Office Action is in response to the applicants' communication received on October 22, 2007.
2. Claims 43-72 are presented for examination.
3. The applicants have not amended, cancelled, or added new claims.
4. Applicants' arguments with respect to claims 43-72 have been considered but are deemed to be moot in view of the new grounds of rejection.

### ***Remarks***

5. Regarding the telephone interview held with the Examiner and the applicants' representative on January 2, 2008, the Examiner expressed that the limitations of dependent claims 49 and 50 should be incorporated into independent claims 23, dependent claims 59 and 60 should be incorporated into independent claim 53, and dependent claims 69 and 70 should be incorporated into independent claim 63 in an effort to overcome a rejection to newly discovered references Hornick et al., Patent No. 6865573; Swamy et al., Patent No. 6874141; and Abileah et al., Patent No. 6904598. The Examiner explained that the incorporation of the dependent claims into the independent claims would result in an allowance of the claim limitations. The Examiner and the applicants' representative reached a tentative agreement on this matter. However, the applicants' representative expressed continuing this matter on a later date

to confirm the inclusion of the limitations of dependent claims into the independent claims.

***Claim Objections***

6. Claims 23, 53, and 63 are objected to because of the following informalities:

The examiner has taken careful consideration into the claim structure and claim limitations presented in independent claims 23, 53, and 63. It is the opinion of the Examiner that independent claims 23, 53, and 63 should be written to include the limitations of dependent claims 49, 50, 59, 60, 69, and 70 to produce a useful, concrete, and tangible result.

The Examiner kindly requests that the applicants take the Examiner's suggested claim objections into careful consideration.

The remaining claims are dependent claims, these dependent claims are dependent on the above objected to base claims. They are therefore objected to for at least the reason set forth above.

Appropriate correction is required.

**NAME OF CONTACT**

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cheryl Lewis whose telephone number is (571) 272-4113. The examiner can normally be reached on 6:30-3:00. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Cottingham

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can be reached on (571) 272-7079. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

(571) 273-4113 (Use this FAX #, only after approval by Examiner, for "INFORMAL" or "DRAFT" communication. Examiners may request that a formal paper/amendment be faxed directly to them on occasions.).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist/ Technology Center (571) 272-2100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Cheryl Lewis/  
Patent Examiner, A.U. 2167  
January 7, 2008